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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,730	06/06/2001	Pratik Kumar Nahata	60426-322; 2000P07678US01	7169
24500	7590	04/08/2004	EXAMINER	
SIEMENS CORPORATION INTELLECTUAL PROPERTY LAW DEPARTMENT 170 WOOD AVENUE SOUTH ISELIN, NJ 08830			DALENCOURT, YVES	
			ART UNIT	PAPER NUMBER
			2157	
DATE MAILED: 04/08/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <u>09/875,730</u>	Applicant(s) <u>NAHATA ET AL.</u>
	Examiner <u>Yves Dalencourt</u>	Art Unit <u>2157</u>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 January 2004.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-23 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 20 is/are allowed.  
 6) Claim(s) 1-7 and 10-18 is/are rejected.  
 7) Claim(s) 8,9,19 and 21-23 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

This office action is responsive to communication filed on 01/07/04.

### ***Response to Amendment***

The examiner has acknowledged the amended specification, the amended claims 1 - 2, 6 – 8, 10 – 12, 17, 19 – 20, and the submission of new claims 21 – 23.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 - 23 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1 – 7, and 10 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Joseph David King (US 6236333; hereinafter King) in view of Lotito et al (US 6,079,738; hereinafter Lotito).

Regarding claims 1, 5, 10 - 11, and 15 - 16, King teaches a vehicle port control system (figure 1) comprising a sensor that detects the presence and distance of the key fob from a vehicle door (col. 1, lines 44 – 50); a lock for securing the port (col. 2, lines 28 – 32); and a control unit in communication with said sensors, controlling the actuation of said lock (40, figure 1; col. 2, lines 32 – 49; col. 3, lines 32 – 41).

King teaches all the limitations in claims 1 and 10, but fails to specifically teach a capacitive sensor for generating an electric field for sensing an object (claims 1 and 10); and wherein said object is at least a portion of a person (claims 5 and 15).

However, Lotito teaches in an analogous art, an occupant presence and position sensing system, which comprises a capacitive sensor for generating an electric field for sensing an object (fig. 3; col. 4, lines 31 – 45; col. 6, lines 34 – 50); and wherein said object is at least a portion of a person (col. 4, lines 13 - 22).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a capacitive sensor for generating an electric field for sensing an object, which is at least a portion of a person in King's device as evidenced by Lotito because King teaches sensors that detect the presence and distance of a key fob from the sensor (col. 1, lines 47 – 48) and Lotito further teaches a

capacitive sensor for generating an electric field for sensing an object for the purpose of accurately sensing the presence and position of an object at a greater distance.

Regarding claims 2 and 12, King and Lotito teach all the limitations in claims 1 and 10, and King further teaches a vehicle port control system that includes an electronic key device (22, figure 1) for sending a key code to said control unit (40) wherein said control unit (40) is programmed to actuate said lock when said key code matches said security code (col. 3, lines 10 - 19).

Regarding claims 3 and 13, King and Lotito teach all the limitations in claims 2 and 12, and King further teaches a vehicle port control system, wherein said electronic key device sends said key code when requested by said control unit (col. 3, lines 10 – 15; the request of the code by the control unit is done by the interrogation signal).

Regarding claims 4 and 14, King and Lotito teach all the limitations in claim 3, and King teaches a vehicle port control system, wherein said control unit requests said key code when said object crosses said predetermined distance (col. 1, lines 48 – 54 and lines 59 – 67; the request of the code by the control unit is done by the interrogation signal).

Regarding claims 6 and 17, King and Lotito teach all the limitations in claims 1 and 10, and King further teaches a vehicle port control system which, includes a security system (the claimed vehicle subsystem) vehicle subsystem in communication with said control unit, said vehicle subsystem for responding to the presence of an object crossing said predetermined distance (col. 1, lines 47 – 58).

Regarding claims 7 and 18, King and Lotito teach all the limitations in claims 1 and 10, and King further teaches a vehicle port control system that includes actuators (36a-e, figure 1; the claimed latch) for controlling opening and closing of said port (col. 2, lines 28 – 36).

***Allowable Subject Matter***

Claims 8 – 9, 19, 21 - 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 20 is allowed.

The following is a statement of reasons for the indication of allowable subject matter: As specifically claimed, the art of record fails to teach, among other limitations, in combination, a method of port control, which comprises the steps of establishing a lower voltage on a third surface spaced from the second surface, thereby propagating an electric field from the first surface, around the second surface, and to the third surface; sensing changes in the electric field caused by the presence of an object in the electric field; generating an electric field signal based on the changes in the electric field; comparing the electric signal to a predetermined threshold; and controlling a port based on the comparison.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (703) 308-8547. The examiner can normally be reached on M-TH 7:30AM - 6: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yves Dalencourt  
Y.D  
March 29, 2004



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